

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUL 26 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Amendment of the Commission's
Regulatory Policies to Allow Non-
U.S.-Licensed Space Stations to
Provide Domestic and International
Satellite Service in the United
States

IB Docket No. 96-111

and

Amendment of Section 25.131 of the
Commission's Rules and Regulations
to Eliminate the Licensing
Requirement for Certain Receive-
Only Earth Stations

CC Docket No. 93-23
RM-7931

and

Request of COMMUNICATIONS SATELLITE
CORPORATION for Waiver of Section
25.131(j)(1) of the Commission's
Rules As It Applies to Services
Provided via the Intelsat K Satellite

File No. ISP-92-007

DOCKET FILE COPY ORIGINAL

**MOTION OF SPACE COMMUNICATIONS CORPORATION OF
JAPAN FOR PERMISSION TO FILE LATE INITIAL COMMENTS**

Space Communications Corporation ("SCC"), of Tokyo, Japan, by its undersigned counsel, hereby requests permission to file its initial comments in the above-captioned proceedings two weeks late. The original and ten copies of those comments are submitted herewith for filing. In support of its motion, SCC states as follows;

1. SCC was established in 1985 by Mitsubishi Corporation and other Mitsubishi Group companies. SCC operates two

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satellites (SUPERBIRD-A and SUPERBIRD-B, located at 158°E and 162°E respectively) providing commercial Ku-band FSS (Fixed Satellite Service) communications services to Japan and neighboring countries.

2. In mid 1997, SCC will launch a third satellite, SUPERBIRD-C (at 144°E), that will offer commercial Ku-band service to a wider geographic service area. SUPERBIRD-C coverage will include most visible areas of the Asia Pacific region (including Japan, China and Southeast Asia), and a beam that is capable of providing service to Hawaii. SCC hopes to be able to provide a wide range of communications services within and between many of the countries in the Asia Pacific region. Therefore, SCC is particularly interested in the Commission activity in the area of licensing satellite communications services involving access to earth stations located in U.S. territory that will utilize non-U.S. satellites. The results of the Commission proceeding initiated by the Notice, therefore, will have a direct impact on the business of SCC.

3. Permission for late filing is required because of delays that resulted from unforeseeable difficulties in coordinating the production of the final version of the comments between Tokyo and Washington, D.C.

4. Rather than waiting to file its submission until the reply round of comments, SCC believes it would be valuable to the Commission, and the other interested parties in the referenced

proceeding, to have the benefit of SCC's comments at the earliest possible opportunity, even if beyond the deadline, for consideration by the Commission during its early review and preparation of its draft Report and Order and by the parties in preparing their reply comments. This proceeding addresses important issues affecting international satellite communications, and the consideration of the widest possible range of views will assist the process and improve the result.

5. If its late filing is accepted, in order to insure that other interested parties in this proceeding have access to its initial comments, SCC will undertake by Friday, August 2, 1996, to serve copies of its submission on the interested parties who submitted comments in the proceeding as of July 15, 1996.

For all the foregoing reasons, SCC respectfully requests that the Commission grant its motion for permission to file its initial comments in the referenced proceeding one week late.

Dated: July 26, 1996

Respectfully submitted,
SPACE COMMUNICATIONS CORPORATION

By: 

John M. Adams, Esquire
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Its Counsel

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JUL 26 1996

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY
July 12, 1996**

**Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554**

Re : IB Docket NO. 96-111; CC Docket No. 93-23, RM-7931

Dear Mr. Caton :

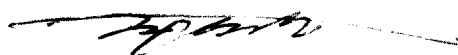
Enclosed for filing on behalf of Space Communications Corporation ("SCC"), are comments in response to the Commission's Notice of Proposed Rulemaking ("Notice") in the above-referenced proceeding (FCC 96-21 (released May 14, 1996)), together with a Motion to Permit Filing of Late Comments.

SCC was established in 1985 by Mitsubishi Corporation and other Mitsubishi Group companies. We currently operating two satellites SUPERBIRD-A and SUPERBIRD-B) providing commercial Ku-band Fixed Satellite Service communications services to Japan and some neighboring countries. In mid 1997, SCC will launch its additional third satellite, SUPERBIRD-C, which will offer commercial Ku-band service to a wider geographic service area.

The Notice and possible ensuing Rules will be significant to our future business in the provision of international satellite communications. We have a number of comments, concerns and questions that are described more fully in the documents submitted herewith.

Than you for your attention to this matter.

Very truly yours,



**MICHIHO TANAKA
Director, General Manager
Corporate Planning Dept.
Space Communications Corporation**

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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OFFICE OF SECRETARY**

In the Matter of)	
Amendment of the Commission's Regulatory Policies to Allow Non- U.S.-Licensed Space Stations to Provide Domestic and International Satellite Service in the United States)	IB Docket No. 96-111
and)	
Amendment of Section 25.131 of the Commission's Rules and Regulations to Eliminate the Licensing Requirement for Certain Receive- Only Earth Stations)	CC Docket No. 93-23 RM-7931
and)	
Request of COMMUNICATIONS SATELLITE CORPORATION for Waiver of Section 25.131(j)(1) of the Commission's Rules As It Applies to Services Provided via the Intelsat K Satellite)	File No. ISP-92-007

COMMENTS OF SPACE COMMUNICATIONS CORPORATION

Space Communications Corporation ("SCC") hereby submits its comments in response to the Commission's Notice of Proposed Rulemaking ("Notice") in the above-referenced proceeding.¹

I. INTRODUCTION/BACKGROUND

SCC was established in 1985 by Mitsubishi Corporation and other Mitsubishi Group companies. SCC is currently operating two satellites (SUPERBIRD-A and SUPERBIRD-B, located at 158°E and 162°E

¹ See FCC 96-21 (released May 14, 1996).

respectively) providing commercial Ku-band FSS (Fixed Satellite Service) communications services to Japan and some neighboring countries. These services include the provision of a wide variety of satellite communication services to TV and cable TV stations, corporations and government bodies. In mid 1997, SCC will launch its additional third satellite, SUPERBIRD-C, which will offer commercial Ku-band service to a wider geographic service area.

SUPERBIRD-C will be located at 144°E and its coverage will include most visible areas of the Asia Pacific region (including Japan, China and Southeast Asia), and a beam that is capable of providing service to Hawaii. SCC hopes to be able to provide a wide range of communications services within and between many of the countries in the Asia Pacific region. Therefore, SCC is particularly interested in the Commission's activities in the area of licensing satellite communications services involving access to earth stations located in U.S. territory, and which will utilize non-U.S. satellites.

Some aspects of the subject Notice gives SCC cause for concern. These concerns are set forth in more detail below.

II. NON-U.S. SATELLITE SYSTEMS WILL BE AT A COMPETITIVE DISADVANTAGE UNDER THE ECO-SAT TEST

Use of the ECO-Sat test will introduce significant delays in licensing earth stations to access non-U.S. satellites that will place these satellite systems at a competitive disadvantage. As described in that portion of the Notice concerning the

implementation of the ECO-Sat test, the Commission is considering procedures that would place each earth station license request on public notice to solicit comments from all interested parties prior to a licensing decision by the Commission.² There is no doubt that during this Comment period, parties that will be competing against the subject non-U.S. satellite system will create many arguments in an attempt to impact negatively the outcome of the ECO-Sat test. This will undoubtedly lead to several rounds of comments and reply comments, before the Commission would have sufficient data to make an informed decision. By contrast, earth station licensing procedures normally applicable to earth stations seeking to access U.S. satellite systems require the submission of more routine business and standard technical information. See 47 C.F.R. Part 25.

Thus, it could take the earth station accessing the non-U.S. satellite many months to complete the entire review process. Indeed, the process would then be repeated for every earth station license application that involves some new service type or routing element. By the time necessary approvals are obtained, the business opportunity for the non-U.S. satellite system may be lost as existing providers using U.S. satellites would have been able to make competitive shifts so as to preempt non-U.S. competitors.

² See Notice at Paragraphs 15, 22.

**III. THE ECO-SAT TEST SHOULD NOT BE USED
TO UNFAIRLY INFLUENCE ITU
COORDINATION OF U.S. AND NON-U.S.
SATELLITE SYSTEMS**

After applying the ECO-Sat test, paragraph 51 of the Notice clearly states that the Commission will additionally take into account possible spectrum coordination conflicts before deciding whether to grant the earth station license in question. This creates the potential for unfair influencing of the ITU coordination process, based upon the desire of the non-U.S. satellite system to serve the U.S. SCC believes that the Commission should do its utmost to separate any decisions relating to the ECO-Sat test from any ITU coordination negotiations that might simultaneously be taking place between the U.S. administration and the administration responsible for the non-U.S. satellite system concerned. Further work will be required to develop Commission procedures that will ensure this takes place.

**IV. FULL COMPLIANCE WITH THE
COMMISSION'S PART 25 TECHNICAL RULES
SHOULD NOT BE AN ABSOLUTE
REQUIREMENT IN ALL CASES**

In the examples cited by the Commission in paragraphs 55 and 56 of the Notice, it is reasonable to expect the non-U.S. satellite system to comply with the Commission's Part 25 rules. However, there are other requirements in Part 25 that may not be appropriate to impose on non-U.S. satellite systems. For example, the rules that relate to satellite design, rather than earth

station operation, cannot reasonably be imposed on a non-U.S. satellite system, particularly if that system is already in operation.³ Neither is it reasonable for the Commission to require a non-U.S. satellite operator to change its future satellites to comply with these Part 25 rules, as there may be other, overriding factors that determine the future satellite design, such as continuity of operation with existing earth stations and existing customers. Therefore some aspects of the Commission's Part 25 rules may not be appropriate for all non-U.S. satellite systems, and the Commission should be prepared to allow waivers in appropriate circumstances, on a case-by-case basis.

**V. IMPLEMENTATION OF THE ECO-SAT TEST
POSES OTHER SIGNIFICANT PRACTICAL
DIFFICULTIES AND COMPLICATIONS**

SCC foresees many practical problems that will occur in the implementation of the ECO-Sat test that likely will lead to further licensing delays such as those described in Section II, above. Some of these practical problems are described below:

A. The Route Test. The route test alone will not be sufficient. In some situations, the non-U.S. country being examined under an ECO-Sat test route (whether it is the home country or another country) may have a monopolistic policy that

3

See 47 C.F.R. Section 25.210 (technical requirements for space stations in the Fixed Satellite Service).

only permits one entity (typically the PTT) to operate satellite communications systems. If that country also has its own separate satellite system, it is likely that the same "PTT" entity will have a vested interest in its operation. In this situation, there may be no "de jure" reason, or any overt "de facto" constraint, that prevents the U.S. satellite system from competing for the traffic from that country, but the business interests of the satellite communications operator may dictate that they always select the national satellite system for their usage. The de facto evidence in this situation may be very difficult, if not impossible, to ascertain.

B. Circuit Routing Concerns. The policies being proposed by the Commission rely heavily on the ability to regulate which countries satellite circuits are routed to. This can only be ascertained with intimate knowledge of the satellite system equipment configuration, and therefore the Commission will have to rely heavily on the representations made by earth station operators. This creates the potential for a "leaky satellite", analogous to a "leaky PBX" when regulating connectivity to the PSTN. In order to minimize the risk of the "leaky satellite" occurring, it will be necessary for the Commission to impose severe penalties for any earth station operator found to be violating the prescribed routing constraints.

C. Effect of ECO-Sat Test Results. Adoption of the results of an ECO-Sat test may create the impression with other

countries that the U.S. finds the existing regulatory situation to be acceptable for the long-term. A mechanism should be in place that allows the U.S. to provide ongoing encouragement to other countries to further deregulate access to separate satellite systems.

**VI. SCC REQUESTS CLARIFICATION OF THE
COMMISSION SUGGESTION THAT NON-U.S.
SATELLITES MAY HAVE TO PARTICIPATE
IN PROCESSING ROUNDS**

The Notice discusses the possible need, in some circumstances, for a non-U.S. satellite system to apply as part of a Commission processing round. This appears to be targeted towards situations of extreme spectrum shortage, such as with the Mobile Satellite Service (MSS), but it could be interpreted as applying also to the Fixed Satellite Service (FSS). SCC requests that the Commission define more clearly the circumstances in which a non-U.S. satellite system would be expected to apply as part of a Commission processing round.

**VII. THE "ONE STEP" APPROACH ALTERNATIVE
TO THE ECO-SAT TEST WILL HAMPER
DEREGULATION EFFORTS**

SCC considers that the alternative "one-step" approach discussed in paragraph 31 of the Notice would be counterproductive to the ongoing deregulation of separate satellite systems. In the near term, this approach will undoubtedly result in a negative finding of the ECO-Sat test, which will be a disincentive to all

the countries concerned, including those that might have acceptable regulatory policies in this matter.

**VIII. PRIVATE SATELLITE OPERATING COMPANIES
CREATED BY INTER-GOVERNMENTAL ORGANI-
ZATIONS AND OTHER NON-U.S. SATELLITE
SYSTEMS SHOULD BE TREATED IDENTICALLY**

SCC strongly believes that private satellite operating companies created by inter-governmental organizations (IGOs) such as INTELSAT or INMARSAT should be subject to the same ECO-Sat test as any other private non-U.S. satellite operator. If this is not the case, then these companies will derive significant competitive advantage over any other private satellite operators, whether they be non-U.S. or U.S. companies.

Respectfully submitted,

SPACE COMMUNICATIONS CORPORATION

By: 

Name: / MICHIHO TANAKA

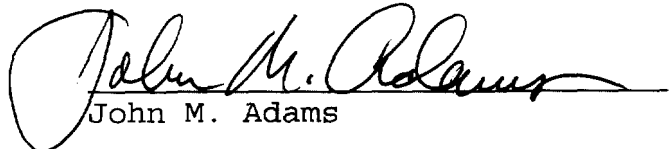
Title: Director, General Manager
Corporate Planning Dept.

July 22, 1996

CERTIFICATE OF SERVICE

I, hereby certify that a true copy of the foregoing Motion of Space Communications Corporation of Japan for Permission to File Late Initial Comments, together with copies of the Comments of Space Communications Corporation and a related cover letter, was served this 26th day of July, 1996, by hand delivery or first-class mail, postage prepaid, upon each of the following:

Chairman Reed E. Hundt Federal Communications Commission 1919 M. Street, N.W. Room 814 Washington, D.C. 20554	Jane Mago Federal Communications Commission 1919 M. Street, N.W. Room 844 Washington, D.C. 20554
Commissioner Rachelle B. Chong Federal Communications Commission 1919 M. Street, N.W. Room 844 Washington, D.C. 20554	Rudolfo M. Baca Federal Communications Commission 1919 M. Street, N.W. Room 802 Washington, D.C. 20554
Commissioner James H. Quello Federal Communications Commission 1919 M. Street, N.W. Room 802 Washington, D.C. 20554	William F. Caton, Acting Sec'y. Federal Communications Commission 1919 M. Street, N.W. Room 222 Washington, D.C. 20554
Commissioner Susan Ness Federal Communications Commission 1919 M. Street, N.W. Room 832 Washington, D.C. 20554	Donald H. Gips Federal Communications Commission 2000 M. Street, N.W. Washington, D.C. 20554
Julius Genachowski Federal Communications Commission 1919 M. Street, N.W. Room 832 Washington, D.C. 20554	Paula H. Ford Federal Communications Commission 2000 M. Street, N.W. Room 502-A Washington, D.C. 20554
ITS Federal Communications Commission 1919 M. Street, N.W. Room 246 Washington, D.C. 20554	David R. Siddall Federal Communications Commission 1919 M. Street, N.W. Room 246 Washington, D.C. 20554


John M. Adams